

Agenda

Environment and Licensing Committee

Date: **Tuesday 24 January 2023**

Time: **4.15 pm**

Place: **Council Chamber**

For any further information please contact:

Democratic Services

committees@gedling.gov.uk

0115 901 3844

Environment and Licensing Committee

Membership

Chair Councillor Marje Paling

Vice-Chair Councillor Nicki Brooks

Councillor Pat Bosworth
Councillor Rachael Ellis
Councillor Des Gibbons
Councillor Julie Najuk
Councillor Alex Scroggie
Councillor Martin Smith
Councillor Sam Smith
Councillor Clive Towsey-Hinton
Councillor Paul Wilkinson

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AGENDA

Page

- 1 Apologies for Absence and Substitutions.**
- 2 To approve, as a correct record, the minutes of the meeting held on 10 January 2023.** 5 - 7
- 3 Declaration of Interests.**
- 4 Review of Taxi Licence Fee Setting.** 9 - 43
- 5 Proposed Taxi Licensing Fees for 2023/24.** To Follow
- 6 Any other item which the Chair considers urgent.**

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MINUTES ENVIRONMENT AND LICENSING COMMITTEE

Tuesday 10 January 2023

Councillor Marje Paling (Chair)

Present: Councillor Nicki Brooks Councillor Alex Scroggie
Councillor Pat Bosworth Councillor Martin Smith
Councillor Rachael Ellis Councillor Sam Smith
Councillor Des Gibbons Councillor Paul Wilkinson
Councillor Julie Najuk

Absent: Councillor Clive Towsey-Hinton

Officers in Attendance: L Chaplin, B Hopewell, T Najuk and R Pentlow

1 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS.

Apologies for absence were received from Councillor Towsey-Hinton.

2 TO APPROVE, AS A CORRECT RECORD, THE MINUTES OF THE MEETING HELD ON 29 NOVEMBER 2022.

RESOLVED:

That the minutes of the above meeting, having been circulated, be approved as a correct record.

3 DECLARATION OF INTERESTS.

None.

4 APPLICATION FOR STREET TRADING CONSENT AT EAGLE SQUARE ARNOLD

Consideration was given to a report of the Head of Environment, asking Members to consider an application made by Gedling Borough Council for a Street Trading Consent for the Arnold Market to trade in a consent street in Arnold. The application was seeking approval for the consent to be for a period until the end of December 2023 which is a departure from the Council's Street Trading Policy.

RESOLVED to:

- 1) Approve the application made by Gedling Borough Council for a Street Trading Consent for the Arnold Market to trade in a consent street in Arnold as shows in Appendix 1 to the report; and

- 2) Approve a departure from the Council's Street Trading Policy and that the consent be until the end of December 2023.

5 ANY OTHER ITEM WHICH THE CHAIR CONSIDERS URGENT.

None.

6 EXCLUSION OF THE PRESS AND PUBLIC.

RESOLVED:

That, the Members being satisfied that the public interest in maintaining the exemption outweighs the public interest in disclosing the information that under Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during the consideration of the ensuing reports on the grounds that the reports involves the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

7 CHANGE OF CIRCUMSTANCES FOR HACKNEY CARRIAGE/PRIVATE HIRE LICENCE AA

Consideration was given to a report of the Head of Environment, which had been circulated in advance of the meeting, regarding a change of circumstances following information received about the holder of a Joint Hackney Carriage/ Private Hire Driver's Licence.

AA attended the meeting and addressed the Committee.

In making its decision, the Committee found that there were exceptional mitigating circumstances surrounding the offences which allowed for departure from the Council's approved Policy and Guidelines.

RESOLVED to:

- 1) To suspend AA's licence for 21 days; and
- 2) Issue a warning to AA that such conduct fell short of the expected standard for Hackney Carriage Drivers and that further such incidents would result in another appearance before the Committee.

AA was given 21 days to surrender his licence.

8 APPEAL AGAINST DIRECTORS DECISION FOR IMMEDIATE REVOCATION OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVER - SA

Members noted a report which had been circulated in advance of the meeting, giving information about the recently determined appeal

against the director's decision for an immediate revocation of a Hackney Carriage/Private Hire licence.

The meeting finished at 5.15 pm

Signed by Chair:
Date:

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Report to Environment and Licensing Committee

Subject: Review of Taxi Licence Fee Setting

Date: 24 January 2023

Author: Chief Executive

Purpose

To update members on the review of taxi licensing fee setting, including the findings of Independent Assessment of Gedling Borough Council's Taxi Licence Fee Setting prepared by CIPFA.

Recommendation(s)

THAT:

- 1) That members note the findings, including the financial implications.**

1 Background

- 1.1 The fixing of fees for hackney carriage and private hire drivers, vehicles and operators is a function of the Environment and Licensing Committee as laid out in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
- 1.2 Sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 ('the Act') allow the council to charge fees for the grant of licences in respect of hackney carriage and private hire drivers, vehicles and operators. The legislation specifies the elements that can be included in the calculation of the licence fees.
- 1.3 The Council cannot make a profit from licence fees and there must be a carry forward of any surplus, but there can also be a carry forward of a deficit to enable future recovery. The reconciliation of any surplus or deficit will take place over a three-year cycle.
- 1.4 In order to ensure compliance with the Act and relevant general principles

developed through case law the Council should hold separate memorandum accounts for drivers, vehicles and operators. Historically, the Council has not held these memorandum accounts in this manner.

- 1.5 Members will recall that on the 17 May 2022 the Environment and Licensing Committee were informed of the objections received regarding the proposed hackney carriage and private hire driver, vehicle and operator licensing fees for 2022/23 and also the changes that had occurred regarding the taxi licensing application process, including moving some services online. It was recommended that the fees remain the same as the 2021/22 rate whilst a review of the setting of taxi licence fees and the presentation of the taxi licence budget be undertaken to ensure transparency and to consider the impact of the changes in processes that had occurred. Members resolved that the modified fees for 2022/23 should come into force, which replicated the current 2021/22 fees ensuring no increase in the fees to allow a full review to be undertaken.
- 1.6 The Council undertook a thorough review of its taxi licensing fee setting both retrospectively for 2016/17 through to 2021/22 and forward looking from 2022/23. The review consisted of an appraisal of the full costs attributable to the taxi licencing service for each year from 2016/17 to 2021/22, together with an analysis of the time spent by all officers in the delivery of the service by licence type, to enable the production of the required memorandum accounts for Driver, Vehicle and Operator licences. Similarly the forward look from 2022/23 consisted of a revised timesheet analysis to reflect the changes to the taxi licencing process that have been introduced to enable the production of estimated memorandum accounts to provide the basis for future fee setting. The Council then instructed CIPFA to undertake an independent assessment of its taxi licencing fee setting regime, following the internal review. The full Report can be found at **Appendix A**.
- 1.7 CIPFA confirmed that taxi and private hire licensing fees cannot be used as a general source of raising revenue and a licensing authority must, when setting fees, consider any previous surplus and, if they so choose, deficit, and adjust the level of fees accordingly, such adjustment happening on a three yearly cycle. A licensing authority should not cross subsidise income because, in doing so, the authority would recover costs for some licences that are not permitted as a head of recovery for that particular licence.
- 1.8 As the Council had not historically maintained separate memorandum accounts for the fees levied under sections 53 and 70 of the Act an exercise was completed by finance officers in conjunction with licensing and customer services colleagues in order to provide memorandum accounts which took the cost centre for Taxi Licensing and allocated or apportioned all transactions to either driver, vehicle or operator to produce a net position on each of the three licence types going back over the last six financial years.

- 1.9 The overall position shows that in only one year (2019/20) has the Council achieved greater income than costs. Over the seven years reviewed the overall level of subsidy borne by the Council has totalled £312,500, (this includes the original estimated subsidy for 2022/23).
- 1.10 The exercise involved recording the time spent by officers on different activities and applying the hours identified to the different types of licence according to the percentage of the total volume of licences taken up by that licence type. CIPFA were satisfied with this manner of calculation.
- 1.11 The Council undertook a retrospective analysis of costs for each type of licence. The calculations were based on a retrospective detailing of activity. This analysis showed that there has been over-recovery for vehicle and operator licences and that driver licenses have been significantly subsidised. See table at paragraph 4.2.
- 1.12 Due to the discovery of the over-recovery the Council intends to set up a process to allow all affected licence holders to receive a refund for the average of the amount over charged per licence. Members will be updated as to the progress of this in due course.
- 1.13 CIPFA's assessment of the headings provided in the workflow and spreadsheets was that all of the inclusions are appropriate and all fall, with one exception (Translation Services – which is a minor aspect acknowledged as being deminimus), within the requirements of the legislation. In their view the headings of cost were appropriate and there was nothing that they would not expect to find to support the activity.
- 1.14 CIPFA commented the Council's fee structure is clear and does not depend on officer decision/interpretation and overall the Council's fee setting displayed consistency throughout the period. In previous fee setting reports the Council has stated that the service is delivered at a cost requiring a subsidy from the taxpayer to break even and said that the proposed fees were designed to ensure that the service operates towards a full cost recovery basis, and areas of increased costs have been highlighted.
- 1.15 CIPFA confirmed that the evidence shows that overall the Council has continued to subsidise the licensing services for which these fees and charges are levied and the Council has under recovered its costs throughout this period. The fees charged have failed to cover the Council's costs of providing the licensing services. The Council were considered to have taken a reasonable and proportionate approach when setting fees historically.
- 1.16 CIPFA also noted that the Council recognises that the manner in which the Taxi Licensing service is operated has changed in recent years with increased use of on-line facilities, introduced in the last year with 2022/23 being the first full year.

- 1.17 It was, however, highlighted that previous fee setting reports have not set out for members the officer calculations of costs or income and therefore transparency in decision making was limited. This has not allowed scrutiny of how well the Council was achieving its aim of full costs recovery. Also absent in the reporting was any assessment detailing the carry forward of any surplus or deficit. This is something that will be addressed going forward, with members being provided with a more detailed explanation of the costs of providing the services and any surplus or deficit from the preceding financial year, and the impact that this may have on the fees to be set for the subsequent financial year.
- 1.18 Regarding the Council's future arrangements, CIPFA were provided with spreadsheets that captured the time spent on different licence types to reflect our current arrangements and a methodology flowchart was provided demonstrating where the information was derived from and its final destination.
- 1.19 CIPFA commented that the costs are now related much more closely to the costs for individual licences and minimises the risk of cross subsidy. The new fee structure would produce almost the same income as the existing fee structure. The calculations show a true reflection of the costs and do foreshadow significant changes in the levels of some fees. It is anticipated that the Council will adopt a phasing in of the new level of fees, balancing the maintenance of minimum subsidy with the legal requirements.
- 1.20 It is anticipated that the proposed fees for 2023/24 will not include any treatment of under or over recovery for 2022/23 as this will not be known at the time of fee setting and instead this will be dealt with in the fee calculation for 2024/25.
- 1.21 Summary of CIPFA recommendations:
- The Council should continue to maintain the records that enable them to have separate memorandum accounts for s.53 and 70 of the Act.
 - The Council should consider phasing in of the new level of fees.
 - In future, to ensure that reporting on fee setting to members details the costs and potential income of any new fee structure, with separate calculations for individual types of licences to prevent cross subsidy, the retrospective three year position on surplus or deficit and the likely subsidy required.
 - The Council should carefully monitor time allocations to ensure their accuracy against particular types of licence. CIPFA suggests, as a minimum, a detailed triennial analysis of activity and processes related to the carrying out of particular policy requirements to ensure that time

taken and costs incurred matches the Council's requirements and there is no cross subsidy.

- Over time the Council could address the charging of Corporate overheads to the service (e.g. local democracy costs which are not currently charged).

2 Proposal

- 2.1 That members note the findings of the internal taxi licencing fee setting review and the CIPFA independent assessment of Gedling Borough Council's taxi fee setting, including the financial implications.

3 Alternative Options

- 3.1 To not note the findings of the assessment and financial implications, this is not recommended as it may negatively affect any future fee setting decisions.

4 Financial Implications

- 4.1 The findings of the assessment show that the Council has:

- undercharged for drivers licences in each year 2016/17 through to 2021/22;
- overcharged for vehicle licences in 2016/17, 2018/19, 2019/20, 2020/21 and 2021/22, and undercharged in 2017/18;
- overcharged for operators licences in each year from 2016/17 through to 2021/22.

- 4.2 The table below summarises the memorandum accounts for each licence type based on the review findings for 2016/17 through to 2021/22 and confirmed by CIPFA:

	Driver Licence £	Vehicle Licence £	Operator Licence £
2021/22	74,415	(11,692)	(223)
2020/21	85,002	(21,936)	(725)
2019/20	61,477	(62,774)	(1,321)
2018/19	70,431	(14,407)	(2,810)
2017/18	83,471	6,925	(2,093)
2016/17	55,932	(20,302)	(5,370)
Total deficit/(surplus)	430,728	(124,186)	(12,542)

- 4.3 The Council intend to offer a refund to those proprietors who were over charged, equivalent to the amount of the overcharge per licence plus interest, which will result in a cost to the Council of approximately £150,000, subject to approval of the budget by Cabinet at its meeting on 24 January 2023.

5 Legal Implications

- 5.1 The statutory power for the setting of taxi licence fees for drivers, vehicles and operators is governed by sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976. These sections dictate the parameters of what can and cannot be charged for when setting a particular fee.
- 5.2 There has also been substantial litigation on the subject of licensing fees, resulting in a number of general principles that ought to be followed. Taxi and private hire licensing fees cannot be used as a general source of raising revenue and the Council must, when setting fees, consider any previous surplus and, if they so choose, deficit and adjust the level of fees accordingly, such adjustment happening on a three yearly cycle. The Council should not cross subsidise income because, in doing so, the Council is recovering costs for some licences that are not permitted as a head of recovery for that particular licence.
- 5.3 Whilst as a whole the Council has subsidised the taxi licensing service the internal review and assessment from CIPFA show that there was over-recovery for vehicle and operators licences. As historically, the Council did not hold separate accounts for driver, vehicle and operator licences the Council could therefore be at risk of a successful claim if it did not take steps to address this.

6 Equalities Implications

- 6.1 None.

7 Carbon Reduction/Environmental Sustainability Implications

- 7.1 None.

8 Appendices

- 8.1 Appendix A – Gedling Borough Council: Independent Assessment of Taxi Licence Fee Setting – Final Report – November 2022.

9 Background Papers

- 9.1 Report to Environment and Licensing Committee – Proposed Taxi Licensing Fees for 2022/2023 – 17 May 2022.

Statutory Officer approval

Approved by Chief Financial Officer

Date: 13 January 2023

Approved by Monitoring Officer

Date: 13 January 2023

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**Gedling Borough Council:
Independent Assessment of Taxi Licence
Fee Setting**

Final Report

November 2022

1. Introduction and Executive Summary of findings

Introduction

- 1.1. The Council wish there to be an independent review of the methods the Council employs to set Licence Fees for Taxis. We understand that the Council has recently received challenge to their current methods and therefore wish us to review and comment (with any appropriate recommendations) on the reasonableness of the methods and the Council's compliance with good practice.
- 1.2. In the briefing for this review, it was made clear to us that the Council has not maintained separate memorandum accounts to hold fees levied under s.53 and 70 of the Act. For the review however they did provide Memorandum Accounts which takes the cost centre (R1150) for Taxi Licensing in the Council's financial management system (Agresso) and allocates all transactions to either Driver, Vehicle or Operator licences to produce a net position on each of the three license types going back over the last six years.
- 1.3. In addition, they provided a briefing note explaining the retrospective position and details and calculations of their forward proposals.

Our Approach

- 1.4. CIPFA intended to offer the Council independence in undertaking this review and will offer a reasoned and objective opinion. To undertake the review, we intended:
 - To set out the legal requirements and test the reasonableness of the Council's approach against a number of 'good practice' statements.
 - To review the accounting arrangements that the Council has currently (including the establishment of central overheads) that identify the costs the Council incurs to ensure they fairly represent the Council's costs and are reasonable;
 - To consider the last 6 years fee setting against the last 6 years costs to test the relativity and reasonableness of them;
 - To undertake limited benchmarking of fees charged by other Councils to test whether the Council is setting a 'reasonable' level of fee to the fee payer and which represents fairness to the Council's ratepayers.
 - To consider the application of the Council's methodology in the future.
- 1.5. Our intention was to provide the Council with our independent assessment through a written report.
- 1.6. We commenced by reviewing the Councils fee setting reports and following the receipt of the explanatory documents from the Council, a series of initial

'tests'¹ were established based upon what we considered were the relevant legislative principles and sent to the Council for their review. They were acceptable to the Council. We then prepared a draft report for the Council's comments.

- 1.7. This review, though independent is provided to the Council on the understanding that part, or all of it, may be published by the Council or provided to a third party.**
- 1.8. This review has been conducted as a 'desktop' review based solely upon the explanatory spreadsheets provided to us by the Council. We have also used comparisons gathered by us independently.**
- 1.9. The review does not seek to provide legal opinion to the Council. The Council in determining any action to take following this review should seek, if necessary, its own legal advice.**

Executive Summary

Background

- 1.10. Our report commences with a review of the pertinent sections of the Local Government (Miscellaneous Provisions) Act 1976 providing for the setting of fees and the substantial litigation on the subject of licensing fees and particularly in connection with taxi and private hire licensing fees. From this we understand that taxi and private hire licensing fees cannot be used as a general source of raising revenue and a district council must, when setting fees, consider any previous surplus and, if they so choose, deficit and adjust the level of fees accordingly, such adjustment happening on a three yearly cycle. A council should not cross subsidise income because, in doing so, a district council is recovering costs for some licences that are not permitted as a head of recovery for that particular licence.
- 1.11. The Local Government Association has produced guidance in a document called 'Open for Business', which states the activities that can be included when calculating the fee on a cost recovery basis. The full advice is contained in the Appendix of our report.
- 1.12. We accessed the Council's website to review the reports detailing and seeking approval to the fees proposed over the last six years. We are not aware when the general structure of fees that were in use during the period was first put in place but noted that after 2014/15, the same phraseology was used to advise members as follows: *'the proposals were designed to ensure that the service operates on a full cost recovery basis. All fees ...show an increase of fees, this increase reflects increased costs and a fuller assessment of the total costs of providing the service'*.
- 1.13. Over the years there have been some additional comments: relating to increased workload for Customer Services; additional administration for

¹ Highlighted as italics throughout the report.

introduction of the Immigration Act and increase in licensing enforcement investigations involving complex cases as well as high visibility compliance checks.

- 1.14. From 2020/21 onwards, new wording was added: *'The service has historically been delivered at a cost to the Council and requires a subsidy to break even. The increases in fees over the past few years have been made to progress towards a full cost recovery model, this year's increase brings the service a step closer to a full cost recovery model however, it is anticipated that the service will still be a cost to the Council and still require a subsidy to breakeven.'*

Council calculations

- 1.15. The Council have supplied spreadsheets that provide a comprehensive review of the cost of delivering taxi licensing services as well as associated income over the last six years. This is the first time the Council has undertaken this exercise and we understand that previously the Council relied on increasing fees against anticipated increases in costs.
- 1.16. The Council points out that the manner in which the Taxi Licensing service is operated has changed in recent years with increased use of on-line facilities, introduced in the last year with 2022/23 being the first full year. These spreadsheets have attempted to reflect this.
- 1.17. All financial transactions have been allocated to either Driver, Vehicle or Operator licences. Time spent by the Licensing team and Customer Services staff (based on estimating the time spent in the past and a recording exercise in the spring of 2022) were calculated and allocated by volume to different license types.

Analysis

- 1.18. We have sought to test the fee setting against the legislative requirements and the advisory suggestions of the LGA as we have interpreted them. We have then tested the calculations to establish whether they have been applied appropriately.

Does the Council take a reasonable and proportionate approach?

- 1.19. Overall, the Councils fee setting displays consistency throughout the period. In each report the Council said it was setting out to *'..ensure that the service operates on a full cost recovery basis..'* and reflect *'...increased costs and a fuller assessment of the total costs of providing the service'*. Areas of increased cost such as *'..an increase in licensing enforcement investigations involving complex cases as well as high visibility compliance checks..'* have been highlighted.
- 1.20. Expected increases in the cost of the service have been outlined for members although the quantum of the officer's budgetary calculations of costs or income has never been explained at the time fees were set.

However, the evidence is that the Council has continued to subsidise the fees and charges and therefore has taken a reasonable and proportionate approach.

- 1.21. Whilst the legislation does not require the Council to consider comparison of fees in other Councils, we have explored comparisons recognising that there is no general national reporting of fees and the level will be based on each Councils own licence conditions and renewal periods. Some Councils will choose not to charge on a total cost recovery basis which is clearly what the Council has sought in fee setting. Also, each Council will have different activity levels which will affect their costs.
- 1.22. We reviewed the position over the period since 2016/17 using CIPFA RO returns for all Licencing activity. This suggested that the Council has a much higher cost base than the average of other Councils, though it does not reflect the amount of activity. Another comparison based on the number of taxis being operated suggests that the Council did not have the highest costs per taxi. The RO return comparison does confirm that alongside other Councils, the Council does not fully recover its costs.
- 1.23. A simple comparison of fees, would appear to show that the Council does charge higher fees than the average of the other Nottinghamshire Shire Districts. This is not conclusive as the Councils structure is simpler and less differentiated than others. A review using differing scenarios would appear to confirm that, but, in a combination of those scenarios, the Council is the 6th most expensive of 8 Councils.

Are the Taxi fees cost neutral? Are license fees broadly cost neutral in budgetary terms, so that, over the lifespan of the licence, the budget should balance?

- 1.24. Over the period, the Taxi Fees cannot be said to be cost neutral. The Council has under recovered its costs throughout this period and the fees charged have failed to cover the Councils costs.

Are the elements of the licensing process which can be included in the calculation of fees correctly applied and costs related to issue and administration of licences recovered in driver's licence fees and the reasonable cost of inspecting vehicles, the reasonable cost of providing hackney carriage stands and any reasonable administrative costs in connection with the control and supervision of hackney carriages and private hire vehicles included in the fees? Does the calculation methodology of the Council demonstrate accurate recording of cost and calculations of fees?

- 1.25. Judging whether the charges were reasonable was outside the scope of our review, however, the headings in the Councils spreadsheets have been reviewed by us and in our view, all of these inclusions are appropriate and all fall, with one exception (Translation Services), within the requirements of the legislation.

1.26. We reviewed the details of costs (and income) charged in the Councils Agresso financial system to this cost centre. In our view the headings of cost were appropriate and there was nothing we would not expect to find to support this activity. There was apparent consistency in that each type of Licence received an element (variable) for each charging object. There were a number of differences in the objects included in the costs. These were queried with the Council and we were satisfied with the explanations.

1.27. Reviewing the detail of the Council's time calculations shows that the Council have established the time spent by officers on different activities and then applied the hours identified to the different types of licences according to the percentage of the total volume of licences taken up by that type of licence. Our review satisfies us as to the manner of the calculation.

Are charges for different categories of licence accounted entirely separately and do not subsidise each other? Are those benefitting from the activities permitted by the various licences being subsidised by the general fund? Is there any evidence that charges within a licensing regime for different categories of licence are subsidising each other.'

1.28. The Council has confirmed that it has not maintained separate memorandum accounts to hold fees levied under s.53 and 70 of the Act.

1.29. Above, we noted that throughout the period, fees were increased and the fee setting reports made a consistent reference to '*the proposals were designed to ensure that the service operates on a full cost recovery basis.*' We are satisfied that the Memorandum Accounts does now confirm that with the exception of one year, Taxi Fees were subsidised by the Council.

1.30. The Council has undertaken a retrospective analysis of costs for each type of Licence. The calculations are based on a retrospective detailing of activity. The Council are satisfied they fairly represent the position and clearly suggest that there has been over-recovery for Operator and Vehicle licences and that Driver Licences have been significantly subsidised.

Are the core principles that fees should be non-discriminatory, justified, proportionate, clear, objective, made public in advance, transparent and accessible in evidence?

1.31. Though we have not been made aware that the Council has undertaken an Equality Impact Assessment of its fee structure, we see nothing in the Fee structure that is discriminatory.

1.32. The Council have based the retrospective fee calculations on a timesheet exercise, these have been verified and the Council is satisfied the results represent a true picture. We reviewed the activities included in the spreadsheet. All of the activity categories identified were appropriate.

1.33. The Councils fee structure is clear and does not depend on officer decision/interpretation, the Councils fee setting displays consistency throughout the period. However, reports have not set out for members the

officer's calculations of costs or income and therefore transparency in decision making was limited.

- 1.34. The Council's proposals for fees are easily accessible through the Councils website; Committee Reports and we understand that renewal letters are sent to Licence holders.

Is there, to ensure that fees remain reasonable and proportionate, a regular and robust review process? Is the Council making a profit from licence fees and is any surplus or deficit carried forward and forming part of any subsequent review of fees.'

- 1.35. We cannot be certain that the Council has a regular and robust process. We know that annually there was a report to the Cabinet as part of Budget setting on overall Licencing activity and a report to the Environment and Licencing Committee to recommend fees for the coming financial year. Reports to recommend fees say that proposals were designed to ensure full cost recovery basis but recommendations have not set out for members the officer's calculations of costs or income. Also absent in the reporting was any assessment detailing the carry forward of any surplus or deficit.
- 1.36. Though the evidence is limited we think that officers sought to minimise the deficit by recommending fees increase at a higher rate than costs were increasing in order to recover more of the costs but the officers' budget predictions were undermined by the downturn in the number of licences taken up reducing the increase in income.
- 1.37. The Cabinet received reports in which the cost of Licencing activity was detailed and will have taken that into account in setting the Council's budget and to that extent it can be said that deficits were considered. The annual report recommending fees said that *'...proposals were designed to ensure that the service operates on a full cost recovery basis'*, but the Committee may have been more able to address that issue if they received details of the subsidy and the impact the recommendations for the next years fees might have on the subsidy.

Future Arrangements

- 1.38. We considered the Councils future proposals. Their spreadsheets capture the time spent on different licence types to reflect the current arrangements and there is a methodology flowchart to demonstrate where the information is derived from and its final destination. They also set out a calculation of fees for the remainder of 2022/23 based upon the analysis undertaken and contrasts these with those currently being charged. Again, this includes a methodology flowchart showing how the information shown feeds into this.
- 1.39. Direct costs are set against the licence they relate to. There are reductions to the time allocations from those in the retrospective spreadsheets relating to Driver Licences which we understand will reduce Customer Services costs by £46,000 (assuming no drop in volumes). The Governance and

Committee time allocations are unchanged from the retrospective spreadsheet.

- 1.40. To understand how this impacted on individual fees we reviewed a worked example for a Vehicle Licence of which the greatest single volume of licences is expected. We can see how the calculations flow into the summation against a fee and this therefore represents an understandable and logical methodology. We shared with the Council one concern regarding the use of an Operator Risk Scale. This is the only non-monetary calculation in the proposals but since this applies to a limited number of licences, we consider that its use has minimal impact.
- 1.41. We can see that the costs are now related much more closely to the costs for individual licences and minimise the risk of cross subsidy. The Council's anticipation is that the new fee structure would produce almost the same income as the existing fee structure. We note that the calculations do foreshadow significant changes in the levels of some fees. These calculations do not include any treatment of under or over recovery.

Conclusion

- 1.42. It is clear that the Council's approach for the future is more robust. The costs for individual licences are more relatable to the costs involved. They should have the impact of minimising the cross subsidy between licences and initially are not likely to significantly increase the subsidy required from the Council.

Recommendations

- 1.43. The Council should continue to maintain the records that enable them to have separate memorandum accounts for s.53 and 70 of the Act.
- 1.44. Given that the revision of fee levels suggested by the Councils methodology is significant, we would urge the Council to consider phasing in of the new level of fees, balancing the maintenance of minimum subsidy with the legal requirements.
- 1.45. In future, we would want the Council to ensure that reporting on fee setting to Members details the costs and potential income of any new fee structure, with separate calculations for individual times of licences to prevent cross subsidy, the retrospective 3 year position on surplus or deficit and the likely subsidy required.
- 1.46. Going forward we would want the Council to carefully monitor time allocations to ensure their accuracy against particular types of licence. We suggest, as a minimum, a detailed triennial analysis of activity and processes related to the carrying out of particular policy requirements to ensure that time taken and costs incurred matches the Council's requirements and there is no cross subsidy.

1.47. In addition, over time we would want the Council to address the charging of Corporate overheads against these costs.

2. Legislative requirements and 'good' practice approach

2.1 Our understanding of the pertinent legislation is set out below.

Fees for drivers' licences

2.2 Section 53 of the Local Government (Miscellaneous Provisions) Act 1976 provides that "...a district council may demand and recover for the grant to any person of a licence to drive a hackney carriage, or a private hire vehicle, as the case may be, such a fee as they consider reasonable with a view to recovering the costs of issue and administration and may remit the whole or part of the fee in respect of a private hire vehicle in any case in which they think it appropriate to do so."

2.3 Section 53 therefore limits the cost of a driver's licence to the council's administration costs associated with the "...the grant to any person of a licence to drive a hackney carriage, or a private hire vehicle...".

Fees for vehicle and operators' licences

2.4 Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 provides that "...a district council may charge such fees for the grant of vehicle and operators' licences as may be resolved by them from time to time and as may be sufficient in the aggregate to cover in whole or in part:

(a) the reasonable cost of the carrying out by or on behalf of the district council of inspections of hackney carriages and private hire vehicles for the purpose of determining whether any such licence should be granted or renewed;

(b) the reasonable cost of providing hackney carriage stands; and

(c) any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles."

2.5 The licensing costs recoverable by a district authority in respect of vehicles and operators is limited to vehicle inspection costs for the specific purpose of determining their suitability to be licensed, reasonable cost of providing hackney carriage stands, reasonable administration costs for processing the licence application and finally reasonable costs associated with "...control and supervision of hackney carriages and private hire vehicles."

Interpretation

2.6 We understand that there has been substantial litigation on the subject of licensing fees and particularly in connection with taxi and private hire licensing fees. From this have arisen a number of general principles that we understand are now established and embedded.

- 2.7 We understand that taxi and private hire licensing fees cannot be used as a general source of raising revenue for a district council. A series of court cases, has established the principle that a district council must, when setting fees, consider any previous surplus and, if they so choose, deficit and adjust the level of fees accordingly, such adjustment happening on a three yearly cycle.
- 2.8 A council should not cross subsidise income because, in doing so, a district council is recovering costs for some licences that are not permitted as a head of recovery for that particular licence.
- 2.9 Cost of supervision of drivers cannot be applied to vehicle fees.

Good Practice

- 2.10 The Local Government Association has produced guidance in a document called 'Open for Business', which states the activities that can be included when calculating the fee on a cost recovery basis:
- Administration
 - Initial visit/s
 - Third party costs
 - Liaison with interested parties
 - Management costs
 - Local democracy costs (Applications)
 - On costs
 - Development, determination and production of licensing policies
 - Web material
 - Advice and guidance
 - Setting and reviewing fees
 - Further compliance and enforcement costs
 - Additional Monitoring and Inspection visits
 - Local democracy costs (Hearings etc)
 - Registers and national reporting
 - Charging for action against unlicensed traders (vehicles)
- 2.11 The full advice is contained in the Appendix.

3. Review of the Council's fee setting over the last 6 years

- 3.1. We accessed the Council's website to review the reports detailing and seeking approval to the fees proposed.

Pre 2016/17

- 3.2. We are not aware when the general structure of fees that were in use during the period was first put in place. We looked at the Fee setting reports for 2014/15 and 2015/16 and the wording of the report was the same as in later years. We understand that following a Scrutiny Committee review of 2014, a requirement for a knowledge test was introduced for which a fee was paid by an applicant on their first licencing.

- 3.3. The knowledge test proposal report indicated that the net budget impact of the proposal was an estimated cost of £57,400 in 2014/15, as detailed in the Gedling Plan approved by Council on 3 March 2014. This was an estimate based on information available currently but was to be closely reviewed throughout 2014/15 in order to forecast for future years and to monitor the impact of the introduction of the test over the next financial year.

- 3.4. In each subsequent annual report to members, the same phraseology was used to advise members as follows: *'the proposals were designed to ensure that the service operates on a full cost recovery basis. All feesshow an increase of fees, this increase reflects increased costs and a fuller assessment of the total costs of providing the service'*. There have been some progressive variations:

- From 2016/17 to 2019/20 there was a reference *'...particularly with reference to the increased workload for customer services.'*
- From 2017/8 to 2019/20 there was a reference to *'....and also associated with the need for additional administration associated with the introduction of The Immigration Act 2016.'*
- In 2020/21 new wording was added: *'The service has historically been delivered at a cost to the Council and requires a subsidy to break even. The increases in fees over the past few years have been made to progress towards a full cost recovery model, this year's increase brings the service a step closer to a full cost recovery model however, it is anticipated that the service will still be a cost to the Council and still require a subsidy to breakeven.'*
- From 2020/21 to 2022/23 wording was added: *'Furthermore, ... there has been an increase in licensing enforcement investigations involving complex cases as well as high visibility compliance checks across the region which has placed a further burden on existing resources.'*

- In 2021/22, further wording was added: *'During the COVID-19 pandemic in 2020 Members resolved not to increase the fees, for taxi driver, operator and vehicle licences for the financial year 2020/21. This was in recognition of the continuing difficulties faced by the taxi trade during the pandemic and the fees remained at the 2019/20 level.'*
- For 2022/23, the following was added *'During 2021/22 fees were raised to reflect the increase in applications being received and enforcement work carried out as the lockdown restrictions were lifted. Now that the trade is back to pre-pandemic levels and above in terms of public demand, the administration and enforcement workload for the Licensing Team is back to pre-pandemic levels.'*

4. Analysis of the Council's methodology

Introduction

- 4.1 The Council have supplied a document summarising the legislative requirements as the Council understands them with accompanying spreadsheets of calculations. The document outlines the position the Council has established as part of the commitment made to the Environmental and Licensing Committee to review taxi licensing fees and charges and says a comprehensive review of the cost of delivering taxi licensing services as well as associated income over the last six years has been carried out. We understand that this is the first time the Council has undertaken this exercise and we understand that previously the Council relied on increasing fees against anticipated increases in costs.
- 4.2 The Council points out that it should be noted that the manner in which the Taxi Licensing service is operated has changed in recent years with increased use of on-line facilities, introduced in the last year with 2022/23 being the first full year of implementation of this process change. These spreadsheets have attempted to reflect this.
- 4.3 A Memorandum Accounts file² takes the cost centre for Taxi Licensing in the Council's financial management system (Agresso) and allocates all transactions to either Driver, Vehicle or Operator licences to produce a net position on each of the three license types going back over the last six years. As well as the direct disbursements and the cost of the Licensing Team, both direct and indirect costs for Customer Services who are directly involved in the administration of the licence are included as a cost of the service provision.
- 4.4 Each element of cost (and income) is impacted by the amount of % split that is driven by 7 allocating factors which are Calculation of time Retrospective look; Per Account/Sub Analysis Narrative (Income based); % of Licences applicable; Non-Licence costs related to one-off items; Postages; Licencing Time Reports from Legal and Corporate Admin.
- 4.5 For the calculations of time spent on Licencing activities, the review commenced with Licensing team and Customer Services staff providing details of the estimated time spent on taxi licensing activities. This was based on estimating the time spent in the past and a desktop recording exercise in the spring of 2022.
- 4.6 A Calculation of Time – Retrospective Look spreadsheet³ allocates the time taken by each member of staff to the different license types. It includes a methodology flowchart showing how the time of Licensing and Customer Services staff is captured and used with licence volume data to allocate costs between license types in the Memorandum Accounts. It is therefore "retrospective" in that it is focused on the last six years.

² First created on 19 April 2022

³ First created on 15 June 2022

Analysis

- 4.7 In order to reach a conclusion on the independent review, we have sought to test each of the aspects of the fee setting against the legislative requirements and the advisory suggestions of the LGA as we have interpreted them. We have then tested the calculations to establish whether they have been applied appropriately.

Does the Council take a reasonable and proportionate approach?

The Councils fee setting

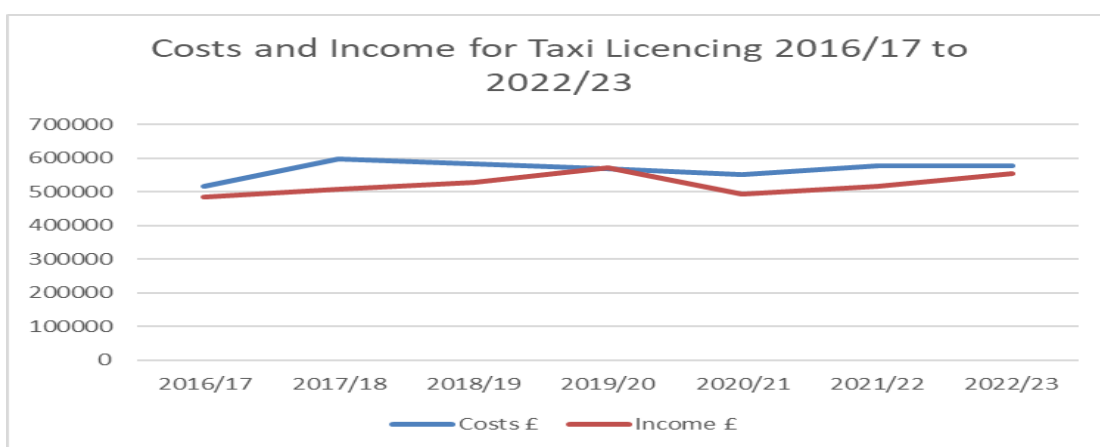
In Section 3 above we have described the history of the Councils fee setting. The table below summarises the fees set (Figures in blue show the changes agreed in May 2022):

Type of Fee	2016/7	2017/8	2018/9	2019/20	2020/1	2021/22	Approx. % increase 2021/2-2022/3	2022/23
	£	£	£	£	£	£		£
Taxi Licence Knowledge Test Fee	41	44	60	65	70	74	5.5	78
Vehicle Inspection	68	73	79	85	88	93	5.5	98
Vehicle Re-test (including after accident damage/enforcement action)	42	45	49	53	55	58	5.5	61
Meter Test	33	36	339	366	40	42	5.5	44
Transfer of vehicle licence	11	12	13	14	15	16	5.5	17
Change of name and/or address on a licence	11	12	13	14	15	16	5.5	17
Replacement badge fee	15	16	17	18	19.5	20.5	5.5	21.5
Replacement paper licence					15	16	5.5	17
Replacement plate fee plus plate deposit	15	16	17	18	N/A	18	5.5	19
Vehicle registration change	11	12	13	14	15	16	5.5	17
Replacement badge holder	5	5	6	6	6.5	7	5.5	7.5
Driver Licence Fee 1 year	119	129	139	150	150	158		158
Driver Licence Fee 3 year – (If a 3 year licence is refused or not granted for any reason £100 of the application fee will be refunded to the applicant)	307	332	359	388	388	409		409
Vehicle Licence Fee	116	125	135	146	146	154		154
Operator's Licence 1 year	88	95	103	111	111	117		117
Operator's Licence 1 year – each additional vehicle	88	95	103	111	111	117		117
Operator's Licence 5 year	467	504	554	588	588	620		620
Operator's Licence 5 year – each additional vehicle	132	143	154	166	166	175		175

- 4.8 Overall, in each years increase there was relatively little variation in the percentage increase applied and the average percentage increase is (excluding the Knowledge Test) 39.7% with the highest being 54.4% for transfer of vehicle license; change of name or address on a license and vehicle registration change and the lowest percentage change being 26.6% for Replacement Plate fee plus plate deposit.
- 4.9 In each report to members, the same phraseology was used to advise members as follows: *'the proposals were designed to ensure that the service operates on a full cost recovery basis. All feesshow an increase of fees, this increase reflects increased costs and a fuller assessment of the total costs of providing the service'*. There have been some progressive variations referencing *'..the increased workload for customer services.'*; *'..the need for additional administration associated with the introduction of*

The Immigration Act 2016.’; ‘Furthermore, ... there has been an increase in licensing enforcement investigations involving complex cases as well as high visibility compliance checks across the region which has placed a further burden on existing resources.’

- 4.10 In 2020/21 new wording was added: *‘however, it is anticipated that the service will still be a cost to the Council and still require a subsidy to breakeven.’*
- 4.11 The reports have not set out for members, the officers detailed budgetary estimates of costs or income. Expected increases in the cost of the service have been outlined for members but the quantum of this has never been explained at the time fees were set.
- 4.12 Over the period the Councils costs have increased with a large increase between 2016/17 and 2017/18 followed by three years where costs declined. Costs have risen in 2021/22 and 2022/23 but are still 3% below the peak year of 2017/18. Income over the period has increased each year (except during the pandemic period).
- 4.13 The overall position is that in only one year (2019/20) has the Council achieved greater income than costs. Over the seven years reviewed the level of subsidy borne by the Council has totalled £312,512. The graph below shows the trend of costs and income.



Comparisons

- 4.14 In order to consider the reasonableness of the fees we have explored comparative information. It should be noted that exact comparisons are difficult to determine as there is no general national reporting of fees and the legislation does not require Councils to benchmark their fees, the emphasis is on a reasonable fee based on the costs. Also, each licencing authority should set fees to meet their own licencing policies and practices and most importantly their costs and the prior years under or over recovery.

Costs

- 4.15 The only national database of costs of licencing is that maintained by CIPFA. This is based on Councils costs and income in providing services – known as RO Returns – and provides a consistent series of results for a significant number of years. Unfortunately, it is not based purely on costs for Taxi Licencing - the category is 'Licencing - Alcohol and entertainment licencing; taxi licencing'.
- 4.16 We reviewed the position for the Council over the period since 2016/7. The Council did not make returns for the early years of this series but it does suggest that the Council has a much higher cost base than the average of other Councils but confirms that alongside other Councils it does not fully recover its costs.
- 4.17 This 'higher cost' may of course be due to the policies the Council employs to manage its Licencing activities and the manner in which the Council regulates the taxi trade and the number of applications it deals with. Reviewing this is beyond the scope of this review.
- 4.18 We explored this further by comparing reported costs for all Licencing activity of the Councils in Nottinghamshire in the CIPFA RO returns database against the number of Taxis and Private Hire Vehicles reported operating. This result can only be indicative as it compares total Licencing costs with the number of taxis but the result suggests that the Council is not the most expensive locally.

Taxi Fees

- 4.19 The Council has supplied us with a table of fee comparisons for the Nottinghamshire Shire districts.
- 4.20 This suggests that the Council has higher fees than the average of the other for some licenses, but not others. We undertook a separate review of the Taxi and Private Hire charges levied by all the Councils in Nottinghamshire for 2022/23. A number of issues arise:
- The Gedling structure is simpler and far less differentiated than others;
 - Other Councils offer fees for types of vehicles that Gedling do not: i. e. Ambulances; Stretched limos;
 - Other Councils allow Operator Licences for a much greater range of periods;
 - One Council charges for pre-application advice;
- 4.21 Because of the difficulty of matching individual fees, in order to assess the comparative level of fees, we created some scenarios:
- Scenario 1: A new driver applies for a Hackney Carriage Drivers one year licence, takes a Knowledge test; has a DBS check gets a licence and then loses his badge and gets a replacement. The result would suggest that compared to an average of £268.50, Gedling is below average.
 - Scenario 2: A new driver applies for a Private Hire Drivers three year licence, takes a Knowledge test; has a DBS check gets a licence and

then loses his badge and gets a replacement; then moves house and gets his licence amended. The result would suggest that compared to an average of £326, Gedling is the most expensive.

- Scenario 3: An applicant seeks a one year Hackney Carriage Vehicle Licence; the vehicle is tested; the meter is tested; they request brackets for the plate and an amendment to the Licence. For this scenario the average is £311.05 and Gedling is just above that average.
- Scenario 4: A new applicant seeks a three year Private Hire Drivers Licence with Knowledge Test and DBS check; a Private Hire Vehicle Licence; the vehicle is tested and it fails and is retested; they request brackets for the plate. In this scenario, Gedling is above the average of £623.05.
- Scenario 5: A new Operators Private Hire Licence for 20 vehicles for 5 years. In this scenario, Gedling is significantly above the average but three other Councils charge more.

4.22 In undertaking this exercise, it was clear that misinterpretation of the application of fees is possible because of a lack of a detailed understanding of how each Council applies them, which is outside the scope of this review. A definitive conclusion is therefore not possible but the Council would appear to be setting fees above the average but, in a combination of these scenarios, the Council is not the most expensive.

Are the Taxi fees cost neutral?

Are license fees broadly cost neutral in budgetary terms, so that, over the lifespan of the licence, the budget should balance?

4.23 This requires an analysis of whether the Council over a period made a surplus or a deficit and an assessment of whether (over time) the fees charged provided a balanced budget. We explained above that the fees were not cost neutral. The Council's net recovery from cost/fees was as follows: (Positive = Under-recovery; Negative = Over-recovery:)

Year	TOTAL in Memorandum Accounts
2016/17	£30,358
2017/18	£88,302
2018/19	£53,214
2019/20	-£2,618
2020/21	£56,542
2021/22	£62,501
2022/23 (Est.)	£24,100

Are the elements of the licensing process which can be included in the calculation of fees correctly applied and costs related to issue and administration of licences recovered in driver's licence fees and the reasonable cost of inspecting vehicles, the reasonable cost of providing

hackney carriage stands and any reasonable administrative costs in connection with the control and supervision of hackney carriages and private hire vehicles included in the fees?

Does the calculation methodology of the Council demonstrate accurate recording of cost and calculations of fees?

- 4.24 This requires a review of the elements of the licensing process to check that the Council are charging the 'correct' elements against the different licences. The Council have for this exercise supplied a document 'Gedling BC Taxi Licensing Review Background Final'. This is explained in 4.1 above.

Are the elements correctly applied?

- 4.25 This is not a straightforward comparison as the legislative requirements and LGA recommendation is based on subjective recommendations and the Council records the activities as processes and spend on an objective basis.

Activities

- 4.26 The headings in the Councils spreadsheets have been reviewed by us and in our view, all of these inclusions are appropriate and all fall, with one exception, within the requirements of the legislation. The exception is translation services which would be regarded as a corporate expense not chargeable to an activity but as the hours concerned are de-minimis this does not significantly impact on the overall fees.

Costs

- 4.27 We reviewed the Councils retrospective spreadsheet which included details of costs (and income) charged in the Councils Agresso financial system to this cost centre. In our view the headings of cost were appropriate and there was nothing we would not expect to find to support this activity.

Does the calculation methodology of the Council demonstrate accurate recording of cost and calculations of fees?

Activities

- 4.28 Reviewing the detail of the Council's retrospective spreadsheet shows that the Council have established the time spent by officers on related activities and then applied the hours calculated to the different types of licences. This review has been conducted as a 'desktop' review and we have accepted the Councils allocations of time in the spreadsheet.

- 4.29 Our review, satisfies us as to the manner of the calculation, being based on time records and the costs associated. The Council explained that the operator scale risk ratings were used for the retrospective allocation to ensure a fair weighting based on actual vehicles held by the actual operators to get a reasonable allocation of costs rather than just using the same rate for holding one vehicle. This is appropriate.

Costs

- 4.30 There was apparent consistency in that each type of Licence: Drivers; Vehicles and Operators received an element (variable) for each charging object.
- 4.31 We looked at the Councils Memorandum Accounts to compile a comparative listing of the objects charged against between 2016/7 and 2021/22. This indicated a number of differences in the objects included in the costs. These were queried with the Council and we were satisfied with the explanations.

Are charges for different categories of licence accounted entirely separately and do not subsidise each other?

Are those benefitting from the activities permitted by the various licences being subsidised by the general fund?

Is there any evidence that charges within a licensing regime for different categories of licence are subsidising each other.'

Separate Accounting

- 4.32 The Council has confirmed that it has not maintained separate memorandum accounts to hold fees levied under s.53 and 70 of the Act.

Subsidy by the General Rate Fund

- 4.33 From the introduction of the Knowledge test in 2014, it is likely that the taxi fees were being subsidised. In Section 3 above we noted that throughout the period, fees were increased and the fee setting reports made a consistent reference to *'the proposals were designed to ensure that the service operates on a full cost recovery basis. All fees ... show an increase of fees, this increase reflects increased costs and a fuller assessment of the total costs of providing the service'*. This would give assurance that the proposals were intended to ensure there was no subsidy.
- 4.34 Separately, each year the Cabinet received a report on the setting of the budget in which the cost of Licencing activity was detailed as a single budget line (R100 Licencing & Hackney Carriages) In each year the account was shown to be in deficit.
- 4.35 Accordingly, the Cabinet in agreeing the recommendation on the budget would have been aware that overall Licencing activities were not achieving full cost recovery and that accordingly the Council was subsidising Licence holders. It is not known whether the issue of Taxi Fees and any subsidy was brought specifically to the Cabinet's attention, but we accept that pre-decision discussions were held with senior members when this would have been detailed and reviewed.

- 4.36 The Memorandum Accounts does now confirm that with the exception of one year, over the period, the Taxi Fees were subsidised by the Council (see 4.23 above).

Subsidy of different types of licences

- 4.37 Although globally the Council's Licencing activity was subsidised, the balance of Taxi Fee activity was not separately reported other than in the annual fee setting report when the proposals '*were designed to ensure that the service operates on a full cost recovery basis*'.

- 4.38 However, now the Council has reviewed its costs and estimated the time taken to support the Licences it has been able to estimate a division of its costs for each type of Licence. Based on the Memorandum Accounts, the following detail is available (Positive = Under-recovery; Negative = Over-recovery:)

Year	Driver Licence	Vehicle Licence	Operator Licence	Non Licence Costs
2016/17	£55,932	-£20,302	-£5,370	0
2017/18	£83,471	£6,925	-£2,093	0
2018/19	£70,431	-£14,407	-£2,810	0
2019/20	£61,477	-£62,774	-£1,321	0
2020/21	£85,002	-£21,936	-£725	-£5,800
2021/22	£74,415	-£11,692	-£223	0

- 4.39 Though these amounts balance to the overall level of subsidy, it should be noted that they have been calculated by a retrospective detailing of activity. The Council are satisfied they fairly represent the position.

Are the core principles that fees should be non-discriminatory, justified, proportionate, clear, objective, made public in advance, transparent and accessible in evidence?

- 4.40 This requires a review of all the material the Council has relative to the setting of the fees and a judgement of whether the principles have been applied.

Non-discrimination

- 4.41 Discrimination might be created if the Councils fees drew distinctions in terms of race, gender, age or other characteristics. Fee setting reports say there are no implications. Although we have not been made aware that the Council has undertaken an Equality Impact Assessment of its fee structure, we see nothing in the Fee structure that is discriminatory.

Justification and proportionality

- 4.42 The retrospective spreadsheet and the calculations are intended to identify the activity hours the Council undertakes to justify the costs charged for different types of licences. The Councils methodology takes the total hours and summarises them against the five different types of licences and then

multiplies them by the number of those licences to produce the % of time spent on each type of licence. That is then used to allocate the correct 'share' of some costs to each type of licence.

- 4.43 The Council have based the calculations on a timesheet exercise; these have been verified and the Council is satisfied the results represent a true picture. The table below summarises the calculations:

	Activity - Hours per Licence			Overall Activity Hours
	Customer Services	Licencing Team	All Areas	Licencing Team
Type of Licence	Appointments / Tests / Manufacture / Issue	Application Administration	Knowledge Tests	Governance & Committee
Driver 1 year	5.5	1.57	1.34	185.85
Driver 3 year	6.5	2.08	1.34	
Operator 1 year	0.59	1.4		2562.54
Operator 5 year	0.59	5.4		
Vehicle	2.49	0.32		

- 4.44 We reviewed the activities included in the spreadsheet. All of the activity categories identified appeared reasonable and appropriate, although it should be noted that our review was not intended to review the results of the timesheet exercise or to see whether all of the activities were required by the Councils processes.

Clarity/Transparency

- 4.45 Limited comparison with other Council fee structures shows that there are relatively few categories and sub-categories of fees. Those that are relate to time periods and are therefore clear and do not depend on officer decision/interpretation.
- 4.46 We have pointed out previously that the Councils fee setting displays consistency throughout the period. In each report the Council said it was setting out to achieve full cost recovery and areas of increased cost have been highlighted. However, reports have not set out for members the officer's calculations of costs or income. This has not allowed scrutiny of how well the Council was achieving its aim (except for the budget setting report in which the Taxi fee status was submerged in overall Licencing). Transparency is therefore limited.

Advance Notice/Accessible

- 4.47 We are aware that the Council's proposals for fees are advertised; they are easily accessible on the Councils website as are Committee Reports and we understand that letters are sent to Licence holders inviting them to consider renewal. These combined actions would seem to be adequate.

Is there, to ensure that fees remain reasonable and proportionate, a regular and robust review process?

Is the Council making a profit from licence fees and is any surplus or deficit carried forward and forming part of any subsequent review of fees.'

Regular and robust review process

- 4.48 We looked for a regular and robust process. We know that annually there was a report to the Cabinet as part of Budget setting on overall Licencing activity and a report to the Environment and Licencing Committee to recommend fees for the coming financial year. We understand this is in accordance with the Councils constitution that Portfolio Holders and Committees (in this case Environment and Licencing Committee) have the delegation to set the fees. The General Fund budget report simply sets the overall quantum but individual fees should be set with reference to a range of factors including statutory requirements.
- 4.49 We reviewed the Councils decision on the budget to see whether the issue of a subsidy position was highlighted. We have noted that each year in the period, the budget papers indicated that the overall Licencing activity was at cost to the Council.
- 4.50 There has been report to the Environment and Licencing Committee recommending fees each year and each time it is said that *'the proposals were designed to ensure that the service operates on a full cost recovery basis. All feesshow an increase of fees, this increase reflects increased costs and a fuller assessment of the total costs of providing the service.'*
- 4.51 We would expect that officers will have undertaken work to assess costs and potential income (either for the fee recommendation or budget setting report), but there is no public record of the results other than the fee recommendation or the net budget required and recommendations have not set out for members the officer's calculations of costs or income.
- 4.52 Also absent in the reporting was any assessment detailing the carry forward of any under or over recovery. Reports make it clear that the ongoing aim was to remove the deficit through increasing fees to achieve cost recovery. As such, the deficit was always a factor in the recommendations and while understanding the trend is very difficult because of the disruption caused by the pandemic, the officers' predictions appear to have been undermined by the downturn in the number of licences taken up reducing the increase in income.

Treatment of surplus/deficits in any subsequent review of fees

- 4.53 Earlier we pointed out that the cabinet received a report on the setting of the budget in which the cost of Licencing activity was detailed as a single budget line (R100 Licencing & Hackney Carriages). Members will have taken that into account in setting the Council's budget and to that extent it can be said that deficits (albeit as part of a report on all Licencing activity) were

considered as part of a subsequent review of fees. In addition, the annual report to the Environment and Licencing Committee recommending fees said that '*...proposals were designed to ensure that the service operates on a full cost recovery basis.*'

- 4.54 We have explained above why these attempts have not come to fruition but we do think that the Environment and Licensing Committee may have been more able to address that issue if, as part of the fee setting report, they received details of the subsidy and the impact the recommendations for the next years fees might have on the subsidy.

5. Future Arrangements

Introduction

- 5.1 We considered the Calculation of Time – Forward Look Final spreadsheet to review the Councils future proposals. It captures the time spent on different licence types to reflect the current arrangements for the service with the intention of feeding into the fee setting for the remainder of 2022/23. Again, there is a methodology flowchart to demonstrate where the information is derived from and its final destination. The Council say this is intended to feed into the fee setting for 2022/23. This spreadsheet followed the same approach as the Retrospective look.
- 5.2 The Councils documents say that the fees '*... reflect both the full staffing costs of running the service as well as the support service costs. It has therefore been based upon full cost recovery as defined in the CIPFA Service Reporting Code of Practice.*' The fees are based initially '*... with Licensing team and Customer Services staff providing details of the estimated time spent on taxi licensing activities. This was then related to the volumes of particular licenses issued.*' '*As well as the direct costs, this includes Central Support costs such as Customer Services. In calculating the Central Support costs both the direct and indirect costs of these activities are determined and then recharged to from line services to ensure that the principle of full cost recovery is maintained.*'
- 5.3 We also looked at the Calculation of Fee Setting spreadsheet which sets out a calculation of fees for the remainder of 2022/23 based upon the analysis undertaken and contrasts these with those currently being charged. Again, this includes a methodology flowchart showing how the information shown on the other spreadsheets feeds into this.
- 5.4 Direct costs are set against the licence they relate to.
- 5.5 There are changes to the time allocations from those in the retrospective spreadsheets:
- 1-year Driver licences are timed at 4.67 hours for Appointments/Tests/Manufacture/Issue (was 5.5 hours) making a total for that type of Licence at 7.58 hours (was 8.41 hours);
 - 3-year Driver Licences are timed at 5.67 hours for Appointments/Tests/Manufacture/ Issue (was 6.5 hours) giving a total for that type of Licence of 9.09 hours (was 9.92 hours).
- (We understand the calculation is that this will reduce Customer Services costs by £46,000 (assuming no drop in volumes).)
- 5.6 The Governance and Committee time allocations are unchanged from the retrospective spreadsheet.

- 5.7 To understand how this impacted on individual fees we reviewed a worked example for a Vehicle Licence of which the greatest single volume of licences is expected. This is composed of:

Licencing Time Admin	0.16 hours x £17.34/0.16 hours x £24.60	£6.71
Customer Services Time	2.24 hours x £19.64/0.25 hours x £27.77	£50.94
Governance & Committee - Licencing	This is derived from the Governance & Committee Tab that is a grossed up rate to represent hourly cost x activity difficulty.	£29.01
LICENCING – APPORTION - Overall Overheads	This is based on an apportionment according to the total cost of the elements of activity x the number of these licenses as a proportion of the total cost.	£24.38
Licences (Plates)	This is a quoted cost	£15.44
Vehicle Inspection Costs	This is a quoted cost.	£79.19
CUSTOMER SERVICES – APPORTION-Overheads	This is based on an apportionment according to the total cost of the elements of activity x the number of these licenses as a proportion of the total cost.	£31.13
TOTAL		£236.80

- 5.8 We can see how the calculations flow into the summation against a fee and this therefore represents an understandable and logical methodology.
- 5.9 We shared with the Council one concern regarding the use of an Operator Risk Scale. This is the only non-monetary calculation in the proposals and is designed to represent the risk of an Operator with different numbers of vehicles – the greater the vehicles, the greater the risk. However, since this applies to a limited number of licences, we consider that its use has minimal impact.
- 5.10 We can see also that the costs are now related much more closely to the costs for individual licences and minimise the risk of cross subsidy. However, we note that the calculations do foreshadow significant changes in the levels of some fees.
- 5.11 The Council's calculations show that the Council's anticipation is that the new fee structure would produce almost the same income as the existing fee structure.
- 5.12 These calculations do not include any treatment of under or over recovery. We understand the Council intends that in respect of the carry forward of any surplus or deficit '*...we have currently made no proposal or determination with regard to this at present but we would expect to do so commencing with the next round of fee setting (i.e. the outcome of 2020/21 and 2021/22 outturn to feed into 2022/23, taking one year with another aim to break even) and for that to then be a feature of the process going forward. The final proposal in this regard for the current year will be dependent on the outcome of the review.*'

6. Appendix

Charging Good Practice – advice from the Local Government Association

The Local Government Association has produced guidance in a document called 'Open for Business', which states the following activities can be included when calculating the fee on a cost recovery basis:

Administration – this could cover basic office administration to process the licence application, such as resources, photocopying, postage or the cost of handling fees through the accounts department. This could also include the costs of specialist licensing software to maintain an effective database, and printing licences.

Initial visit/s – this could cover the average cost of officer time if a premises visit is required as part of the authorisation process. Councils will need to consider whether the officer time includes travel. It would also be normal to include 'on-costs' in this calculation. Councils will need to consider whether 'on-costs' include travel costs and management time.

Third party costs – some licensing processes will require third party input from experts, such as veterinary attendance during licensing inspections at animal related premises.

Liaison with interested parties – engaging with responsible authorities and other stakeholders will incur a cost in both time and resources.

Management costs – councils may want to consider charging an average management fee where it is a standard process for the application to be reviewed by a management board or licensing committee. However, some councils will include management charges within the 'on-costs' attached to officer time referenced below.

Local democracy costs – councils may want to recover any necessary expenditure in arranging committee meetings or hearings to consider applications.

On costs – including any recharges for payroll, accommodation, including heating and lighting, and supplies and services connected with the licensing functions. Finance teams should be able to provide a standardised cost for this within each council.

Development, determination and production of licensing policies – the cost of consultation and publishing policies can be fully recovered.

Web material – the EU Services Directive requires that applications, and the associated guidance, can be made online and councils should effectively budget for this work.

Advice and guidance – this includes advice in person, production of leaflets or promotional tools, and online advice.

Setting and reviewing fees – this includes the cost of time associated with the review, as well as the cost of taking it to a committee for approval.

Further compliance and enforcement costs could include:

Additional monitoring and inspection visits – councils may wish to include a charge for risk-based visits to premises in between licensing inspections and responding to complaints. As with the initial licensing visit, councils can consider basing this figure on average officer time, travel, administration, management costs and on costs as suggested above.

Local democracy costs – councils may want to recover any necessary expenditure in arranging committee meetings or hearings to review existing licences or respond to problems.

Registers and national reporting – some licensing schemes require central government bodies to be notified when a licence is issued. The costs of doing this can be recovered.

NOTE:

Charging for action against unlicensed traders.

Councils' ability to charge for these costs as part of a licensing scheme depends on the licensing scheme in question. Councils' ability to charge these costs to applicants for licences is therefore dependent on the UK legislation. However, legal interpretation of taxi and PHV licensing suggests that councils do not have the power to recover the costs of any enforcement against licensed or unlicensed drivers at all, although they may recover the costs of enforcement against vehicles.

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